IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5666 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

==========

CHAVDA MADANSINH RANJITSINH

Versus

PRINCIPAL

Appearance:

1. Special Civil Application No. 5666 of 1995

Mr.Haroobhai M. Mehta with MRS VASAVDATTA BHATT
for Petitioner

Mr.V.M.Pancholi, Ld. AGP for Respondent No.4 & 5

RULE SERVED for Respondent No. 2-3,5

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 24/07/2001

ORAL JUDGEMENT

I have heard Mr.Haroobhai M. Mehta, learned Sr. Counsel with Mrs.Vasavdatta Bhatt, learned Counsel appearing on behalf of the petitioner. I have also heard Mr.V.M.Pancholi, learned AGP appearing on behalf of the respondent State Officials.

The petitioner was appointed as a secondary teacher by the Management of the respondent No.2 Trust at a fixed pay of Rs.1,500/- w.e.f. 11-6-1990. However, the service of the petitioner was terminated on 9-1-1992. Having felt aggrieved by the order of termination, the petitioner filed an application before the Secondary Education Tribunal, which registered the case as Application No.45/1992.

Mr.Haroobhai M. Mehta, learned Sr. Counsel submits that the Tribunal has passed an order on 4-5-1995, directing the respondent Trust to pay an amount of Rs.1,500/- per month to the petitioner, till the order of termination i.e. 9-1-1992, but the aforesaid amount has not been paid. Mr.Mehta further submits that the Tribunal should have allowed the prayer of the petitioner for reinstatement, as neither the Management contested the petition, nor any reply has been filed on behalf of the Government, except an oral instruction that no prior permission was obtained from the Government and in the Selection Committee representative of the Government was not present. The Tribunal has rejected the prayer of the petitioner. There is nothing on record to show that either the Management or the Government has produced any sort of evidence to show that "No Objection Certificate" was not obtained by the respondent Trust or the Selection Committee did not consist of any Government representative. Only on oral instruction of the Counsel appeared on behalf of the Government, the Tribunal has rejected the prayer of the petitioner for reinstatement.

I am of the view that the Tribunal should not have passed the order without being satisfied about the case of the Management or of the Government. No documentary evidence has been produced either by the Management or by the Government. In fact, the judgement and order of the Tribunal was passed on no evidence and, therefore, I am of the view that the order passed by the Tribunal on 4-5-1995 in Application No.45/1992 requires to be set aside and remanded back to the Tribunal for deciding the case on merit, after hearing all the parties. Accordingly, the matter is sent back to the Secondary Education Tribunal, Ahmedabad and the Tribunal is directed to issue notice afresh to the parties and after hearing all the parties and taking evidence of the parties, decide the case on merit. However, I do not like to interfere with the order regarding the payment of salary of Rs.1,500/- per month to the petitioner from the date of his appointment till the date of his termination.

With the aforesaid observations and directions, the petition is disposed of. No order as to costs. Rule is discharged.

24-7-2001 (P. K. Sarkar, J.)

vinod